



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 6, 2004

Ms. Patricia E. Carls  
Brown & Carls, LLP  
106 East Sixth Street, Suite 550  
Austin, Texas 78701

OR2004-0902

Dear Ms. Carls:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 195900.

The Georgetown Police Department (the "department"), which you represent, received a request for ten specified incident reports and/or calls for service. You state that some responsive information has been provided to the requestor. You claim, however, that the remaining requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Initially, we note that a portion of the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup> Section 261.201 provides in part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

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<sup>1</sup> Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *See* Gov't Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes.

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). A portion of the submitted information, which we have marked, concerns a report of alleged or suspected abuse or neglect made under chapter 261 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. We, therefore, assume that no such regulation exists. Given that assumption, we conclude that the department must withhold this marked information pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>2</sup> See Open Records Decision No. 440 at 2 (1986) (applying predecessor statute).

You claim that portions of the submitted information are excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a)(1) provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from disclosure if "release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) as an exception to disclosure of requested information must demonstrate how and why the release of the requested information would interfere with law enforcement or prosecution. See Gov't Code §§ 552.108(a), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that these portions of the submitted information pertain to a case that is still pending. Based on your representations and our review of the information at issue, we find that section 552.108(a)(1) is applicable to this information.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. See Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public, including detailed description of offense). Accordingly, with the exception of basic information that must be released to the requestor, we conclude that the department may withhold the information that it seeks to withhold under section 552.108 pursuant to section 552.108(a)(1) of the Government Code. We note, however, that the department maintains the discretion to release all or part of this information that is not otherwise confidential by law. See Gov't Code § 552.007.

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<sup>2</sup> We note, however, that a parent or other legal representative of a victim of alleged child abuse or neglect may be entitled to obtain the requested information from the Texas Department of Protective and Regulatory Services. See Fam. Code § 261.201(g).

We also note that portions of the submitted information are subject to section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. Accordingly, we conclude that the department must withhold the motor vehicle information that we have marked pursuant to section 552.130 of the Government Code, but only if it was issued by an agency of Texas. Otherwise, this marked information must be released to the requestor.

In summary, the department must withhold the information that we have marked pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information that must be released to the requestor, the department may withhold the information that it seeks to withhold under section 552.108 pursuant to section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle information that we have marked pursuant to section 552.130 of the Government Code, but only if it was issued by an agency of Texas.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

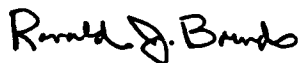
provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/Imt

Ref: ID# 195900

Enc. Marked documents

c: Ms. Amy D. Rumley  
200 Riverbend, # 306  
Georgetown, Texas 78628  
(w/o enclosures)